

APPEAL NO. 041877  
FILED SEPTEMBER 9, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 17, 2004. The hearing officer resolved the disputed issue by deciding that as a result of the \_\_\_\_\_, compensable injury, the appellant (claimant) did not have disability from August 20, 2003, through the date of the hearing. The claimant appeals this determination. The respondent (carrier) asserts that the claimant's appeal was not timely filed and, therefore, should not be considered. Alternatively, the carrier urges that the hearing officer's decision should be affirmed.

DECISION

A timely appeal not having been filed, the decision and order of the hearing officer have become final pursuant to Section 410.169.

Texas Workers' Compensation Commission (Commission) records indicate that the hearing officer's decision and order was mailed to the claimant on June 22, 2004. Pursuant to Section 410.202(a), for an appeal to be considered timely, it must be filed or mailed within 15 days of the date of receipt of the hearing officer's decision. Section 410.202 was amended effective June 17, 2001, to exclude Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code from the computation of time in which to file an appeal. Section 410.202(d). While Tex W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(a) (Rule 102.5(a)) does provide that written communications to the claimant shall be sent to the representative, this has been interpreted to be a courtesy copy as provided for in Commission Advisory 93-11 dated November 4, 1993, and does not operate to extend or change the 15 days after receipt of the hearing officer's decision by the party. The operative date for determining the timeliness of the appeal is the date the claimant, not his or her attorney, received the hearing officer's decision. Texas Workers' Compensation Commission Appeal No. 941144, decided October 4, 1994. In this case, the claimant was deemed to have received the hearing officer's decision on June 27, 2004, and had until July 16, 2004, to file his request for review. The claimant's appeal is postmarked July 28, 2004. Thus, the appeal is untimely and, by operation of Section 410.169, the hearing officer's decision has become final.

The true corporate name of the insurance carrier is **DALLAS FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**RUSTIN S. POLK  
14160 DALLAS PARKWAY, SUITE 500  
DALLAS, TEXAS 75254.**

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Chris Cowan  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Daniel R. Barry  
Appeals Judge